

G. R. S. 58]

Previous references.

File No. 160903-24

Serial Nos.

1.

1903-04.

(Courts)

Later references.

ex. 106-15

As 310-10 (notes)

NO

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1.

Major Part B for March.

SUBJECT.

Laying down Rules for the employment and remuneration of legal practitioners in cases defended or instituted at the Cost of Govt.

1932-85

J. 7. 137-02

2

16th March 1904.

The Govt advocate in Mysore.
Public prosecutors of the divisions and
the Asst Sessions judges.
The Comptroller, The Registrar of
the D. Courts of Districts.
Other heads of Dept.

Lays down rules for the employment and remuneration of legal practitioners in cases defended or instituted at the Cost of Govt.

GPB-3,500-21-7-14

K. Rangaswami.

Consolidated Rules for re-
muneration of Pleaders
engaged by Govt.

SECTION	Courts
FILE No.	160 of 1903-04
SERIAL No.	

I think it would be
useful to Consolidate them
as in the draft prepared
by the Asstt Secy. ~~with~~ ²²
alterations suggested by me
may be considered.

Perhaps it may be
advantageous to employ
local pleaders on terms si-
milar to those allowed
to Public Prosecutors (but
less costly) in District
HQs Quarters where there
are no Sessions Courts.
In fact, we have to em-
ploy some men for places
where there are to be
Asstt Sessions Judges

If this is also decided
in, some reference has
to be made to the pro-
posed arrangement
in this order.

the Dewan
this & the
summar}

27/11/02

27-11-02

May this not wait until it
is decided how prosecutions
in the courts of Apte Depu
Judges are to be conducted?
If it cannot, let the
- Let them see one with
this file on Tuesday morning
next. The present rules
are outdated, and a consolidated
set of rules is certainly
desirable -

~~Let them see~~

27-11-02

I do not see why this
should not wait. It
may be kept.

Let this lie over then for the
present.

28/11

The Prosecutions before
the Assistant Sessions
Judges' Courts, have now

* Note Flagged
in the file

been ^{it} now decided to be conducted
by certain Advocates, who
are appointed as Public
Prosecutors. The Scale
of fees payable to them
has been fixed as shown

below: —

- (a) In ordinary cases — Rs 15
(b) In ordinary cases the
trial of which extends
beyond 2 days — — — Rs 30
(c) In special cases of
exceptional importance
~~importance~~ and difficulty
— such higher fees as on
the recommendation
of the Jt. Magte, may
be specially sanctioned
by G.O.

In the draft order a
new para may perhaps be
added ~~below~~ after para 6,
to the effect that "In the
Case of Public Prosecutors
appointed to conduct
prosecutions in the Asses-
-ant Sessions Judge's Court
the Scale of fees payable
~~to them~~ shall be as follows:—

No - Ser [(a.) In para 6, after the words Public Pro

in line 1, the words "other than those appointed to conduct prosecutions in the Courts of Assistant Sessions judges" may be inserted.

If approved, the above additions will be made and a fresh draft submitted for approval.

2/2/13 To the new para, add the following clause (1) :-
 "In ~~the~~ other respects the provisions in the rules relating to Public Prosecutions ~~shall~~ will, so far as may be, be subject to any necessary modifications, be deemed to apply to Public Prosecutions appointed to conduct prosecutions in the Courts of Assistant Sessions Judge."

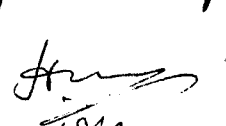
Please put up a clean copy of revised draft on half margin.


29/7/13

Fair draft is submitted.

The references to existing rules are marked in the original draft.

7/8/13


12/8/13

To the Deacon,
 through the 2nd. Councillor.

20/12/13

I shall be glad to discuss
this with the Secretary ^{in the office} on
Monday afternoon the
17th Inst - U

14/18/03

16/8/13

I have studied this
with Mr. Chandrasekhar
Eyer & suggested ~~some~~ a
redraft which he
will please put up soon
U

12/2/04

I have revised and re-read
the rules, as per draft below,
which I submit for approval.

25.1.04

698
27-2-04

Subd to the 2nd Councilor
~~through the~~ U
26/2/04

15.2.04

Thanking the Rules as revised seem
quite suitable - They are taken
mostly from standing orders which
are outdated and of which
a compilation is highly desirable.
A few additions & alterations
which appear to be necessary
have been made - with a view
being the case showing where

The General Letter has been
 taken from & ~~the~~ ^{the} modifica-
 - tions & additions made are
 shown as attached to the
 report before the submission to
 the Dewan - Q

28/2/04

11/2/04
 27/2/04
 P. A. memo for 21/2.
 28/2/04

memo dated

11/2/04
 14/2/04

Subd to Dewan -

11/2/04
 3-3-04

16293
 3.3.04

Final order

PROCEEDINGS OF THE GOVERNMENT OF HIS
HIGHNESS THE MAHARAJA OF MYSORE.

SECTION <u>Courts</u>	
FILE No. <u>160 of 1903-4</u>	
SERIAL No. <u>1</u>	ORDER NO. <u>1932-85</u>
Dated Bangalore, the <u>16</u> <u>Quarto</u>	

1932-85
J. 13720203.

23/3/04

28/2/04

Mean quote
under margin
the existing order
is not to be
modified if there
is no modification
have no objection
but it is
assumed that
point will

(Explained)

5-3-04

Cases in which legal practitioners may be employed.

576/2
may be published
and
6.3.04

11/11/04

1. The rules for the employment and remuneration of legal practitioners in cases defended or instituted at the cost of Government are contained in scattered orders issued from time to time during a period of more than twenty years past. To obviate the inconvenience of having to refer to such scattered rulings whenever a question comes up for disposal and also in order to remove doubts and secure uniformity on certain points, Government are pleased to lay down the following revised and consolidated rules defining the duties, remuneration, etc., of the Government Advocate, the Public Prosecutors and other legal practitioners employed in Civil and Criminal cases to represent the Government.

2. The classes of cases in which legal practitioners may generally be employed to represent the interests of Government are as follows:--

- (a) Civil suits brought against or instituted by public servants and arising out of acts done, or omitted to be done, by them in their capacity as such public servants.
- (b) The conduct of the prosecution in criminal cases of special interest and importance before Magistrates.

(c) All cases tried before Courts of Session.

(d) The defence of murder cases when the prisoners are undefended paupers.

(e) The support of convictions by the Magistracy in criminal appeals before Courts of Session; but only in cases of special interest and importance.

(f) The support of convictions in all criminal appeals and revisions before the Chief Court.

(g) The conduct of the prosecution in cases under section 14 of the Legal Practitioners' Regulation, III of 1884.

(h) Any other case which the Government may specially order to be instituted or defended at the cost of Government.

Duties of Government Advocate.

3. The duties of the Government Advocate are as follows:--

(a) He will advise the Government in all legal matters.

(b) He will support convictions in all appeals and revision cases before the Chief Court, appear in connection with applications made to it for transfer of ^{Criminal} cases, and, generally, appear before the Chief Court in all criminal cases in which Government have to be represented in that Court.

(c) He will also, under special orders of Government, appear in criminal cases before any other Court, or in ^{civil} ~~criminal~~ cases (including appeals) before any Civil Court.

Duties of Public Prosecutors.

4. The duties of Public Prosecutors, appointed by Government under the Criminal Procedure Code, are as follows:--

(a) They will conduct all prosecutions before Sessions Courts, and, when required by the District Magistrates, but only in cases considered by him to be of special ^{interest and} importance, support convictions by the Magistrate in Sessions Courts. The Public Prosecutors will act as the representatives of Government in the Court of Session, and in that capacity shall receive and act upon all notices issued by such Court.

(b) They will also conduct prosecutions before any other criminal Courts, if required to do so by Government, ^{such as} the Chief Court, Sessions Judges, District Magistrates, Deputy Commissioners or Heads of Departments.

(c) ^{Note.} Their employment on ^{the} ~~these~~ duties which are outside their ordinary duties as public prosecutors, should be limited to cases of real importance and actual necessity, and the previous sanction of Government should invariably be applied for when the bill of fees is likely to exceed Rs.100. In protracted trials, it would be economical to depute the departmental officers concerned to conduct the prosecution; and when the Public Prosecutor, owing to his absence on Sessions duty or otherwise, is not available to conduct prosecutions in cases of the kind referred to above, an Advocate or Pleader may be employed on terms not involving greater cost to Government.

(b) They will conduct the prosecution in cases under section 14 of the Legal Practitioners' Regulation, III of 1884, unless, in special cases, this duty is assigned to the Government Advocates.

(d) They will further conduct or defend civil suits (including appeals) on behalf of Govt. in any civil Court, when required to do so by or under the orders of Government.

(e) It is also the duty of Public Prosecutors to give legal advice on all proposals to appeal under the Code of ^{Criminal} ~~Civil~~ Procedure, and on all criminal cases generally, when consulted by Heads of Departments and the Deputy Commissioners of Districts.

Conduct of suits against
Government Officers.

5. In suits against Government officers against their proceedings as Government officers (as to which vide Order No.4668-79/Cir. 137, dated 25th September 1888) , the conduct of ^{the} defence shall, in districts where there are Public Prosecutors, be entrusted to them; in other Courts, with the sanction of Government, to the best available local Pleader. In complicated cases requiring greater experience and legal knowledge, the services of the Government Advocate may be applied for through Government.

Employment of other
legal practitioners.

6. The employment of legal practitioners other than the Government Advocate and the Public Prosecutors, in cases in which the employment of ~~these~~ ^{latter} is permissible, should be made only when the ~~latter~~ are not available, and the terms should in no case involve greater cost to Government.

Fees.

7. (1) No separate fees in addition to his pay will be allowed to the Government Advocate for the duties specified in clauses (a) and (b) of Rule 3, or to the Public Prosecutors of Divisions for the duties specified in clauses (a) and (c) of Rule 4. But Public Prosecutors appointed to conduct prosecutions in the Courts of Assistant Sessions Judges, will be remunerated for such work on the following scale:--

(i) In ordinary cases the trial of which does not extend beyond two days --- Rs. 15 per case.

(ii) In ordinary cases the trial of which extends beyond two days, -- Rs.30 per case.

(iii) In special cases of exceptional importance and difficulty, -- such higher fees

as, on the recommendation of the District Magistrate, may be specially sanctioned by Government.

(2) When a Public Prosecutor is required to give an opinion, other than in cases conducted by him for Government, he will be entitled to a remuneration of Rs.16.

(3) In cases not covered by the preceding paras of this Rule, the remuneration for each day's attendance in a criminal court will be a fee not ordinarily exceeding Rs.16 for a Public Prosecutor, and Rs.25 for the Government Advocate, unless a higher sum is sanctioned by Government in consideration of the exceptional importance and difficulty of the case. When more than one case is conducted on the same day, separate fees not exceeding two thirds of the above scale will be allowed for each case. When a case is adjourned without trial or merely struck off, the fee for the day should be limited to Rs.5. No fee will be allowed for studying records, for receiving instructions, for presenting an application, or for filing a list of witnesses.

(4) The maximum fee to a legal practitioner for the defence of a pauper undefended prisoner in a murder case shall be Rs.50, but a smaller fee need alone be allowed by the presiding Judge in the simpler cases.

(5) The remuneration payable to the Government Advocate, Public Prosecutor, or other legal practitioner for conducting or defending a civil suit on behalf of Government will ordinarily be the maximum amount calculated according to rates or costs of the suit.

assessable by the Court, unless an additional sum is sanctioned by Government in consideration of the exceptional importance and difficulty of the case.

(6) The bill for fees should be signed by the authority who consulted or instructed the legal practitioner concerned, and when the fee is for appearance in Court, it should be signed by the Judge.

Travelling allowances.

8. Where the Government Advocate or the Public Prosecutor acts on behalf of Government in a place other than his head-quarters, he will be entitled to travelling allowances under the Mysore Service Regulations. Other legal practitioners will be allowed travelling allowance at the same rates as the Public Prosecutors;

Temporary and acting arrangements for conduct of work.

9. (1) When Public Prosecutors have to leave their stations on private affairs, for short periods, it is their duty to make satisfactory arrangements in communication with the District Magistrate for the conduct of Sessions and other work devolving on a Public Prosecutor, without entailing additional cost to Government.

(2) Similarly when the Government Advocate wishes to leave his station on private affairs, for short periods, he will in communication with the Government make such arrangement as may be necessary for the satisfactory conduct of his duties.

(3) In other cases, the sanction of Government both to the grant of leave and to the acting arrangements found necessary should be obtained.

To the Govt. Advocate.
" Public Prosecutor, for the Govt.
" Comptroller, Mysore
" Regt. Chief Clerk, Mysore
" Other necessary persons

25.2.24

Secy

1903-4

GOVERNMENT OF HIS HIGHNESS
THE MAHARJA OF MYSORE

JUDICIAL

PROCEEDINGS

Dated 16th March 1904

No. 1932-85
J. 137 of 02-03

Laying down rules for the employment remuneration of Legal Practitioners in cases defended or instituted at the cost of Government.

Proceedings of the Government of His Highness the Maharaja of Mysore.

No. 1932-85—J. 137 of 02-03, DATED BANGALORE, 16TH MARCH 1904.

ORDER.—1. The rules for the employment and remuneration of Legal Practitioners in cases defended or instituted at the cost of Government are contained in scattered orders issued from time to time during a period of more than twenty years past. To obviate the inconvenience of having to refer to such scattered rulings whenever a question comes up for disposal and also in order to remove doubts and secure uniformity on certain points, Government are pleased to lay down the following revised and consolidated rules defining the duties, remuneration, etc., of the Government Advocate, the Public Prosecutors and other Legal Practitioners employed in Civil and Criminal cases to represent the Government.

2. The classes of cases in which Legal Practitioners may generally be employed to represent the interests of Government are as follows:—
Cases in which Legal Practitioners may be employed.

- (a) Civil suits brought against or instituted by public servants and arising out of acts done, or omitted to be done by them in their capacity as such public servants.
- (b) The conduct of the prosecution in Criminal cases of special interest and importance before Magistrates.
- (c) All cases tried before Courts of Session.
- (d) The defence of murder cases when the prisoners are undefended paupers.
- (e) The support of convictions by the Magistracy in Criminal appeals before Courts of Session, but only in cases of special interest and importance.
- (f) The support of convictions in all Criminal appeals and revisions before the Chief Court.
- (g) The conduct of the prosecution in cases under Section 14 of the Legal Practitioners' Regulation, III of 1884.
- (h) Any other case which the Government may specially order to be instituted or defended at the cost of Government.

Duties of Government Advocate. 3. The duties of Government Advocate are as follows:—

- (a) He will advise the Government in all legal matters.
- (b) He will support convictions in all appeals and revision cases before the Chief Court, appear in connection with applications made to it for transfer of Criminal cases, and, generally, appear before the Chief Court in all Criminal cases in which Government have to be represented in that Court.
- (c) He will also, under special orders of Government, appear in Criminal cases before any other Court, or in Civil cases (including appeals) before any Civil Court.

4. The duties of Public Prosecutors, appointed by Government under the Duties of Public Prosecutors. Criminal Procedure Code, are as follows:—

- (a) They will conduct all prosecutions before Sessions Courts, and when required by the District Magistrate, but only in cases considered by him to be of special interest and importance, support convictions by *the Assistant Sessions Judges and the Magistracy in Sessions Courts. The Public Prosecutors will act as the representatives of Government in the Court of Session, and in that capacity shall receive and act upon all notices issued by such Court.
- (b) They will also conduct prosecutions before any other Criminal Courts, if required to do so by Government, the Chief Court, Sessions Judges, District Magistrates, Deputy Commissioners or Heads of Departments.

Note.—Their employment on these duties which are outside their ordinary duties as Public

* Vide G. O. No. J. 2572-2614—Cts. 225-2, dated 27th March 1906.

Proceedings of the Government of His Highness the Maharaja of Mysore,

Prosecutors, should be limited to cases of real importance and actual necessity, and the *previous* sanction of Government should invariably be applied for when the bill of fees is likely to exceed Rs. 100. In protracted trials, it would be economical to depute the department officers concerned to conduct the prosecution; and when the Public Prosecutor, owing to his absence on Sessions duty or otherwise, is not available to conduct prosecutions in cases of the kind referred to above, an Advocate or Pleader may be employed on terms not involving greater cost to Government.

(c) They will conduct the prosecution in cases under Section 14 of the Legal Practitioners' Regulation, III of 1884, unless, in special cases, this duty is assigned to the Government Advocate.

(d) They will further conduct or defend Civil suits (including appeals) on behalf of Government in any Civil Court, when required to do so by or under the orders of Government.

(e) It is also the duty of the Public Prosecutors to give legal advice on all proposals to appeal under the Code of Criminal Procedure, and on all Criminal cases generally, when consulted by Heads of Departments and the Deputy Commissioners of Districts.

5. In suits against Government Officers against their proceedings as Government Officers (as to which *vide* Order No. 4668-79—Cir. 137, dated 25th September 1888), the conduct of the defence shall, in districts where there are Public Prosecutors, be entrusted to them; in other Courts, with the sanction of Government, to the best available local Pleader. In complicated cases requiring greater experience and legal knowledge, the services of the Government Advocate may be applied for through Government.

6. The employment of Legal Practitioners, other than the Government Advocate and the Public Prosecutors, in cases in which the employment of the latter is permissible, should be made only when these are not available, and the terms should in no case involve greater cost to Government.

7. (1) No separate fees in addition to his pay will be allowed to the Government Advocate for the duties specified in clauses (a) and (b) of Rule 3, or to the Public Prosecutors of Divisions for the duties specified in clauses (a) and (e) of Rule 4. But Public Prosecutors appointed to conduct prosecutions in the Courts of Assistant Sessions Judges, will be remunerated for such work on the following scale:—

(i) In ordinary cases the trial of which does not extend beyond two days, Rs. 15 per case.

(ii) In ordinary cases the trial of which extends beyond two days, Rs. 30 per case.

(iii) In special cases of exceptional importance and difficulty, such higher fee as, on the recommendation of the District Magistrate, may be specially sanctioned by Government.

(2) When a Public Prosecutor is required to give an opinion, other than in cases referred to in clause (e) of Rule (4), he will be entitled to a remuneration of Rs. 16.

(3) In cases not covered by the preceding paras of this rule, the remuneration for each day's attendance in a Criminal Court will be a fee not ordinarily exceeding Rs. 16 for a Public Prosecutor, and Rs. 25 for the Government Advocate, unless a higher sum is sanctioned by Government in consideration of the exceptional importance and difficulty of the case. When more than one case is conducted on the same day, separate fees not exceeding two-thirds of the above scale will be allowed for each case. When a case is adjourned without trial or merely struck off, the fee for the day should be limited to Rs. 5. No fee will be allowed for studying records, for receiving instructions, for presenting an application, or for filing a list of witnesses.

(Judicial), dated 16th March 1964.

(4) The maximum fee to a Legal Practitioner for the defence of a pauper undefended prisoner in a murder case shall be Rs. 50, but a smaller fee need alone be allowed by the presiding Judge in the simpler cases.

(5) The remuneration payable to the Government Advocate, Public Prosecutor, or other Legal Practitioner for conducting or defending a Civil suit on behalf of Government will ordinarily be the maximum amount calculated according to rates of costs of the suit assessable by the Court, unless an additional sum is sanctioned by Government in consideration of the exceptional importance and difficulty of the case.

(6) The bill for fees should be signed by the authority who consulted or instructed the Legal Practitioner concerned, and when the fee is for appearance in Court, it should be signed by the Judge.

8. Where the Government Advocate or the Public Prosecutor acts on behalf of Government in a place other than his headquarters, he will be entitled to travelling allowance under the Mysore Service Regulations. Other Legal Practitioners will be allowed travelling allowance at the same rates as the Public Prosecutors.

9. (1) When Public Prosecutors have to leave their stations on private affairs for short periods, it is their duty to make satisfactory arrangements for conduct of temporary arrangements in communication with the District Magistrate for the conduct of Sessions and other work devolving on a Public Prosecutor, without entailing additional cost to Government.

(2) Similarly when the Government Advocate wishes to leave his station on private affairs, for short period, he will, in communication with the Government, make such arrangement as may be necessary for the satisfactory conduct of his duties.

(3) In other cases, the sanction of Government both to the grant of leave and to the acting arrangements found necessary should be obtained.

B. K. VENKATAVARADAIENGAR,
Offg. Secy. to Govt., Gen. & Rev. Depts.

To—The Government Advocate in Mysore.

The Public Prosecutors of Divisions and for Assistant Sessions Judges' Courts.

The Comptroller to Mysore Government.

The Registrar of the Chief Court of Mysore.

The Deputy Commissioners of Districts.

Other Heads of Departments.

Exd.—C. R.